

Kenneth E. Horton (State Bar No. 8331)  
Cameron M. Hancock (State Bar No. 5389)

**KIRTON MCCONKIE**

1800 World Trade Center  
60 East South Temple  
Salt Lake City, Utah 84145  
Telephone: (801) 321-4897  
Facsimile: (801) 321-4983  
khorton@kmclaw.com  
chancock@kmclaw.com

Siegmund Y. Gutman (*pro hac vice* to be filed)  
Susan L. Gutierrez (*pro hac vice* to be filed)

**PROSKAUER ROSE LLP**

2049 Century Park East, Suite 3200  
Los Angeles, California 90067  
Telephone: (310) 557-2900  
Facsimile: (310) 557-2193  
sgutman@proskauer.com  
sgutierrez@proskauer.com

Attorneys for Applicant AMGEN INC.

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

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AMGEN INC.,

Applicant,

v.

CHRISTOPHER P. HILL,

Respondent.

Case No.: 2:14-mc-00908-DN-EJF

**APPLICANT AMGEN INC.'S *EX*  
PARTE MOTION FOR AN ORDER  
GRANTING THIRD-PARTY  
DISCOVERY FOR USE IN A  
FOREIGN PROCEEDING PURSUANT  
TO 28 U.S.C. § 1782 AND  
MEMORANDUM IN SUPPORT  
THEREOF**

Hon. Judge David Nuffer

Hon. Magistrate Judge Evelyn J. Furse

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Pursuant to Federal Rule of Civil Procedure 7 and DUCivR 7-1, Applicant Amgen Inc. (“Amgen”), by and through undersigned counsel, respectfully moves the Court *ex parte* for an order granting third-party discovery from Respondent Christopher P. Hill (“Dr. Hill”) for use in a foreign proceeding pursuant to 28 U.S.C. § 1782 (the “Motion”). Per DUCivR 7-1(a)(1), Amgen provides the following memorandum in support of the instant Motion.

**PRECISE RELIEF SOUGHT AND SPECIFIC GROUNDS THEREFORE**

By the instant Motion, Amgen seeks an *ex parte* order authorizing the issuance of document and deposition subpoenas directing Dr. Hill to produce documents within 14 days of service, and provide deposition testimony within 28 days of service, for use in a number of pending foreign proceedings involving a dispute between Amgen (and one of its affiliates) and Teva Pharma B.V. (“Teva”) regarding the inventorship and ownership of certain patents. This Motion is authorized under 28 U.S.C. § 1782, and it should be granted because (i) it satisfies the statutory requirements thereof and (ii) the factors relevant to the Court’s discretion to allow discovery under that statute weigh in favor of granting the requested discovery.

**ARGUMENT**

In pertinent part, 28 U.S.C. § 1782 states that:

The district court of the district in which a person resides or is found may order him to give his testimony or statement or to produce a document or other thing for use in a proceeding in a foreign or international tribunal. ... The order may be made ... upon the application of any interested person and may direct that the testimony or statement be given, or the document or other thing be produced, before a person appointed by the court.

Pursuant to the foregoing statute, and associated case law, Amgen previously filed what was styled as “Notice” of an “Ex Parte Application for an Order Pursuant to 28 U.S.C. § 1782 to Take Discovery from Christopher P. Hill for Use in a Foreign Proceeding” and a separate

memorandum in support thereof.<sup>1</sup> The Court identified Amgen's dual notices as deficient, and instructed Amgen to "refile the pleading" as "a Motion for Letters Rogatory<sup>2</sup> with Memorandum in support as an attachment."<sup>3</sup> In an effort to comply with Docket Entry No. 4, Amgen respectfully files the instant Motion and, for the sake of economy and efficiency, attaches its prior notices and incorporates the same by this reference in full. Specifically, attached hereto as **Exhibits "1" and "2"**, respectively, are all of Amgen's papers filed as Docket Entry Nos. 2 and 3, including the associated sub-exhibits included therewith. To this end, Amgen respectfully requests that the Court consider the substance of Amgen's prior papers under this Motion and grant the order included herewith.

### **CONCLUSION**

For the foregoing reasons, as more fully set forth in Exhibits 1 and 2, Amgen respectfully requests that the Court exercise its discretion to issue an *ex parte* order Granting Amgen's Motion to take discovery from Dr. Hill pursuant to 28 U.S.C. § 1782.

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<sup>1</sup> See Docket Entry(ies) ("D.E.") #2 and 3.

<sup>2</sup> It is Amgen's understanding that letters rogatory are reserved for formal requests from one judicial body to another. See, e.g., 22 C.F.R. § 92.54 ("the term *letters rogatory* denotes a formal request from a court in which an action is pending, to a foreign court to perform some judicial act"); see also 28 U.S.C. § 1782(a) ("The order may be made pursuant to a letter rogatory issued ... by a foreign or international tribunal ***or upon the application of any interested person***") (emphasis added). To this end, Amgen respectfully suggests that the instant Motion is properly styled under 28 U.S.C. § 1782(a) as an "application of any interested person," and not as a letters rogatory.

<sup>3</sup> See D.E. #4.

DATED this 17<sup>th</sup> Day of December, 2014,

Respectfully submitted,

PROSKAUER ROSE LLP

/s/ Siegmund Y. Gutman  
Siegmund Y. Gutman (*pro hac vice* to be filed)  
Susan L. Gutierrez (*pro hac vice* to be filed)

Attorneys for Applicant Amgen Inc.

KIRTON MCCONKIE

/s/ Kenneth E. Horton  
Kenneth E. Horton  
Cameron M. Hancock

Attorneys for Applicant Amgen Inc.

**CERTIFICATE OF SERVICE**

I, Kenneth E. Horton, hereby certify that on this 17th day of December, 2014, I caused a true and correct copy of the foregoing **APPLICANT AMGEN INC.'S *EX PARTE* MOTION FOR AN ORDER GRANTING THIRD-PARTY DISCOVERY FOR USE IN A FOREIGN PROCEEDING PURSUANT TO 28 U.S.C. § 1782 AND MEMORANDUM IN SUPPORT THEREOF** to be served upon Dr. Hill, through his U.S. counsel, by first-class mail to the following address:

Steven A. Ellis  
Jason O. Braiman  
GOODWIN PROCTER LLP  
601 S. Figueroa St., 41st Floor  
Los Angeles, California 90017  
sellis@goodwinprocter.com  
jbraiman@goodwinprocter.com

/s/Kenneth E. Horton  
Kenneth E. Horton